

Feb. 11, 2009

642 5610

Mayor Oscar Goodman
Las Vegas City Hall
Las Vegas, NV 89101

Re: Blake S. Rothbard
320 Rancho Del Norte Dr.
North Las Vegas, NV 89031

Mayor Oscar Goodman

Dear Sir:

On Dec. 4 2004 I was driving my new Jeep Liberty with a temporary plate properly displayed on the rear of the vehicle. Trooper Helms proceeded to stop me and approached the vehicle on the passenger side. I rolled down the window to find out why I was being stopped as I was in full control of the vehicle and had not violated any laws pertaining to the operation of the vehicle. Trooper Helms explained I had done nothing wrong, but that there was no plate on the rear of the vehicle, I proceeded to the rear of the vehicle with Trooper Helms, and pointed the temporary plate out to the trooper. Trooper Helms handcuffed me and told me to wait by his car. Trooper Helms went back to my vehicle where he claimed that he found marijuana, which he claimed to have smelled. When I requested the trooper show the marijuana, he refused and placed me under arrest. After 13 months, the D.M.V. held a hearing at which Trooper Helms admitted falsifying parts of the Declaration of Arrest, The police report and supplemental Arrest Reports, to wit: That there was a temporary plate properly displayed and that it had not been altered in any way also that he never found the marijuana he claimed to have smelled.

~~Jan 2006~~ ^{Dec 2005} I appeared before Judge Abby Silver, where I made a motion to dismiss for no probable cause, which Judge Silver granted due to no judge signing off for probable cause. The City Attorney appealed the decision even though they had no grounds and also had a warrant filed for my arrest. I was arrested and brought back into court for a tenth time. But The City Attorney still has no evidence to justify this complaint.

Thank you for your attention to this matter. It would be deeply appreciated if something could be done to remedy this injustice.

Cc: City Manager
City Attorney
Enclosures

Sincerely,

Blake S. Rothbard

Submitted at City Council

Date 5/20/09 Item CP

1 CASE NO: ID050113A

2 STATE OF NEVADA

3 DEPARTMENT OF MOTOR VEHICLES

4 IN THE MATTER OF THE DRIVING PRIVILEGE OF

5 BLAKE ROTHBARD

D.O.B: 07-21-61

S.S.#: 188-46-3731

6
7 Petitioner/
8

9 DECISION UPON RECONSIDERATION

10 On December 4, 2004, Petitioner, BLAKE ROTHBARD, was subjected to a traffic stop by
11 Trooper HELMS, of the Nevada Highway Patrol. The traffic stop resulted in Petitioner being arrested
12 for driving under the influence of a controlled/prohibited substance. Petitioner requested an
13 Administrative Hearing, which was held on December 8, 2005, at the hour of 9:30 a.m.

14 Present at the hearing was Trooper HELMS, and Petitioner, BLAKE ROTHBARD. Petitioner
15 was not represented by counsel.

16 Upon reviewing the testimony of both the trooper and Petitioner, as well as reviewing all
17 exhibits, which included Department's exhibits one, two, and three, along with Petitioner's exhibits "A"
18 through "D", the below signed DUI Adjudicator found substantial evidence existed upon which to
19 revoke Petitioner's driving privileges. A Findings of Fact, Conclusions of Law, and Decision was
20 rendered and Petitioner was notified by certified mail of the DUI Adjudicator's decision.

21 Petitioner objects to the final decision, which resulted in his privilege to drive being revoked.
22 On December 27, 2005, Petitioner presented a letter to this office requesting a re-consideration of his
23 case for the following reasons:

24 1. Petitioner re-states in his request for re-consideration, that the trooper admitted on the record
25 that Petitioner had a valid temporary placard on his vehicle. Petitioner included a photo copy of this
26 placard, (which had already been admitted as Petitioner's "D" at the time of the hearing).

27 Petitioner's statement is correct.

28 The trooper testified on the record that Petitioner's vehicle had a valid temporary placard, by

**NEVADA
HIGHWAY PATROL**

REPORT IS: SUPPLEMENTAL
TO: ARREST

ACCIDENT NUMBER: NONE
CITATION NUMBER: 1S-0117382
OTHER NUMBER: 041204-0888

INITIAL OBSERVATIONS:

On December 04, 2004 at about 1854 hours, I was traveling north on US-95 in the number three travel lane approaching the north-bound Interstate 15 ramp. I noticed a blue Jeep sports utility vehicle with no rear license plates in front of my marked patrol vehicle. I followed the Jeep onto the north-bound Interstate 15 at which time I activated my over-head emergency lights and siren to effect a traffic stop. The Jeep pulled over to the right shoulder of Interstate 15 and "D" Street off-ramp.

CONTACT WITH DRIVER:

While walking up to the right front passenger door of the Jeep, I noticed the driver opened the driver's door and dropped an something on the ground. The driver then closed the driver's door and kept looking over his left shoulder. I knocked on the right front passenger window at which time the driver, later identified as Blake Scott ROTHBARD by a Nevada driver's license, rolled down the window.

As the right front passenger window came down, I detected a heavy odor of marijuana coming from the vehicle. I asked ROTHBARD for his driver's license, proof of insurance, and the green slip for the vehicle. I also asked ROTHBARD if he has any marijuana in the vehicle. ROTHBARD related not having any marijuana in the vehicle. I then asked him if he was smoking any marijuana. ROTHBARD admitted smoking marijuana earlier in the day but he did not smoke any while driving. I advised ROTHBARD to turn off the vehicle and hand me the keys. I then walked back to my patrol vehicle and placed ROTHBARD's driver's license, vehicle paperwork, and keys in the vehicle.

I returned to ROTHBARD's vehicle and instructed him to place his hands on the steering wheel. I then walked around to the driver's door and observed a small crutch lying on the ground below the driver's door. I returned to the right front passenger window and asked ROTHBARD to exit the vehicle. I met with ROTHBARD on the concrete shoulder between our vehicles. While talking to ROTHBARD, I detected a moderate odor of marijuana coming from his person. ROTHBARD's eyes were blood-shot and glassy with dilated pupils. I also noticed a green tint on his tongue. ROTHBARD was wearing a pair of jeans, t-shirt, and jacket with tennis shoes.

Due to the heavy odor of marijuana and ROTHBARD's admittance of smoking marijuana earlier in the day if he would participate in the Field Sobriety Tests. ROTHBARD agreed to participate and related not having any medical or physical conditions that would hinder his performance.

FIELD SOBRIETY TESTS:

Horizontal Gaze Nystagmus- during this test, I noticed a lack of smooth pursuit in both eyes. A total of two clues were observed during the test.

Walk and Turn- during this test, ROTHBARD broke his stance during the instructional phase. ROTHBARD missed heel to toe during the entire test, kept his arms six inches away from his body, and made an improper turn. A total of four clues were observed during the test.

One-leg Stand- during this test, ROTHBARD raised his left foot. ROTHBARD maintained a right sway, kept his arms six inches away from his body for balance, and put his foot down several times. ROTHBARD started the test three times after putting his foot down. Three clues were observed.

(1)

ARRESTING/REPORTING OFFICER:
TRP. S. HELMS

I.D. NO.:
604

DATE AND TIME REPORT PREPARED:
12/21/04@ 1022 hours

APPROVED BY:

[Signature] 4

1 Where a warrant of arrest is sought, there must be a probable cause determination prior to
2 granting of the warrant and, the criminal complaint charging the defendant with having committed the
3 crime must contain sufficient information to support an independent judgment of the magistrate that
4 probable cause exists for an arrest warrant. Watson v. Sheriff, Lyon County, 93 Nev. 403, 404, 566
5 P.2d 416, 417 (Nev. 1977). However, where a warrant of arrest is not being sought, the complaint
6 is intended solely to put the defendant on formal written notice of the charge he must defend. It need
7 not show probable cause for arrest on its face and may simply be drawn in the words of the statute so
8 long as the essential elements of the crime are stated. Sanders v. Sheriff, Washoe County, 85 Nev. 179,
9 181-182, 451 P.2d 718, 719-720 (Nev. 1969).

10 The lower court in this case was under the mistaken impression that a magistrate had to review
11 this case for probable cause. However, the Defendant in this case bailed out of custody prior to being
12 seen by a magistrate. The Defendant was given an arraignment date. The Defendant was charged by
13 criminal complaint filed under the penalty of perjury. The City was not seeking an arrest warrant,
14 therefore, the criminal complaint did not need to show probable cause for the arrest on its face.
15 However, the complaint was clearly drawn from the statute and specific facts were alleged such that
16 the essential elements of the crime were stated.

17 As stated above, the lower court dismissed the City's case because there was no "PC review"
18 by a judge. The lower court did not dismiss the case based upon the stop. The City never had the
19 opportunity for an evidentiary hearing or to respond to a motion to provide a record regarding
20 probable cause. On the evening of December 4, 2004, Trooper Helms stopped the Defendant's vehicle
21 on reasonable suspicion of criminal behavior and to make reasonable inquiry into suspicious
22 circumstances because the Defendant did not have a rear license plate in violation of Nevada law. See
23 Dixon v. State, 103 Nev. 272, 737 P.2d 1162 (Nev. 1987). When the Trooper came into contact with
24 the Defendant, he developed probable cause to believe the Defendant was committing the crime of
25 driving under the influence. See Deutscher v. State, 95 Nev. 669, 681, 601 P.2d 407, 415 (Nev.
26 1979)(Probable cause to arrest exists where the facts and circumstances within the officer's knowledge
27 at the time of arrest would warrant a prudent person in entertaining an honest and strong suspicion that
28 the person arrested has committed a crime. The presence or absence of probable cause is determined